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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 AYLUS NETWORKS, INC., a Delaware  
corporation,

16 Plaintiff,

17 vs.

18 APPLE, INC., a California corporation

19 Defendant.

CASE NO. 3:13-cv-04700-EMC

**AYLUS' OPENING CLAIM  
CONSTRUCTION BRIEF**

Tutorial: October 20, 2014, 2:30 pm

Time: November 10, 2014, 2:30 pm

Place: Courtroom 5, 17th Floor

Judge: Honorable Edward M. Chen

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**TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. U.S. PATENT NO. RE 44,412.....	1
A. Introduction to the '412 Patent.....	1
II. CLAIM CONSTRUCTION LAW .....	5
III. CLAIM CONSTRUCTION .....	6
A. Handset.....	6
1. Apple's Construction Improperly Seeks to Graft a Tangential Reference about Prior Art from the Specification onto the Claim .....	7
2. The Claims Require Aylus' Construction .....	9
3. The Specification Supports Aylus' Construction.....	11
B. VCR controls.....	12
1. Apple's Proposed Construction Would Render the Applicable Claims Inoperable and Irreconcilably Conflicts with the Claims .....	13
2. Apple's Proposed Construction Conflicts with the Specification .....	15
C. Video Play Controls .....	16
D. Wide Area Network .....	18
E. Remote from the UE .....	20
IV. CONCLUSION .....	22

**TABLE OF AUTHORITIES****Page****Cases**

<i>Apio, Inc. v. Mann Packing Co., Inc.</i> , No. C07-5628 JF, 2008 WL 4571558 (N.D.Cal. Oct. 14, 2008).....	17
<i>Asetek Holdings, Inc. v. CoolIT Sys. Inc.</i> , No. C-12-4498 EMC, 2013 WL 6327691 (N.D. Cal. Dec. 3, 2013) .....	8
<i>Becton, Dickinson &amp; Co. v. Tyco Healthcare Grp., LP</i> , 616 F.3d 1249 (Fed. Cir. 2010) .....	15
<i>Bell Commc'ns Research, Inc. v. Vitalink Commc'ns Corp.</i> , 55 F.3d 615 (Fed. Cir. 1995) .....	9, 11
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006) .....	9, 10, 13, 15
<i>Brown v. 3M</i> , 265 F.3d 1349 (Fed. Cir. 2001) .....	5
<i>Cisco Sys., Inc. v. Lee</i> , 557 F. App'x 963 (Fed. Cir. 2014) .....	5
<i>Comaper Corp. v. Antec, Inc.</i> , 596 F.3d 1343 (Fed. Cir. 2010) .....	21
<i>Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.</i> , 34 F.3d 1048 (Fed. Cir. 1994) .....	7
<i>GE Lighting Solutions, LLC v. AgiLight, Inc.</i> , 750 F.3d 1304 (Fed. Cir. 2014), <i>reh'g denied</i> (June 17, 2014) .....	9, 14, 15
<i>Hologic, Inc. v. SenoRx, Inc.</i> , 639 F.3d 1329 (Fed. Cir. 2011) .....	21
<i>HowLink Global LLC v. Network Commc'ns Int'l Corp.</i> , 561 F. App'x 898, 906 (Fed. Cir. 2014) .....	15, 16
<i>Interactive Gift Express, Inc. v. Compuserve Inc.</i> , 256 F.3d 1323 (Fed. Cir. 2001) .....	13, 21
<i>Invitrogen Corp. v. Biocrest Mfg., L.P.</i> , 327 F.3d 1364 (Fed. Cir. 2003) .....	17
<i>Liquid Dynamics Corp. v. Vaughan Co., Inc.</i> , 355 F.3d 1361 (Fed. Cir. 2004) .....	5
<i>Markman v. Westview Instruments, Inc.</i> , 52 F.3d 967 (Fed. Cir. 1995), <i>aff'd</i> , 517 U.S. 370 (1996) .....	5, 14

1	<i>Merck &amp; Co., Inc. v. Teva Pharm. USA, Inc.</i> ,	
2	395 F.3d 1364 (Fed. Cir. 2005) .....	9, 13
3	<i>O2 Micro Int'l Ltd. v. Beyond Innovation Technology Co., Ltd.</i> ,	
4	521 F.3d 1351 (Fed. Cir. 2008) .....	5
5	<i>Phillips v. AWH Corp.</i> ,	
6	415 F.3d 1303 (Fed. Cir. 2005) .....	5, 6, 9, 13, 17
7	<i>Starhome GmbH v. AT &amp; T Mobility LLC</i> ,	
8	743 F.3d 849 (Fed. Cir. 2014) .....	9
9	<i>Talbert Fuel Sys. Patents Co. v. Unocal Corp.</i> ,	
10	275 F.3d 1371 (Fed. Cir. 2002) .....	14, 16
11	<i>Teleflex, Inc. v. Ficosa N. Am. Corp.</i> ,	
12	299 F.3d 1313 (Fed. Cir. 2002) .....	9
13	<i>Thorner v. Sony Computer Entm't Am. LLC</i> ,	
14	669 F.3d 1362 (Fed. Cir. 2012) .....	5, 7
15	<i>Toshiba Corp. v. Imation Corp.</i> ,	
16	681 F.3d 1358 (Fed. Cir. 2012) .....	5, 8
17	<i>U.S. Surgical Corp. v. Ethicon, Inc.</i> ,	
18	103 F.3d 1554 (Fed. Cir. 1997) .....	5
19	<i>Verizon Servs. Corp. v. Vonage Holdings Corp.</i> ,	
20	503 F.3d 1295 (Fed. Cir. 2007) .....	8
21	<i>Vitrionics Corp. v. Conceptronic Inc.</i> ,	
22	90 F.3d 1576 (Fed. Cir. 1996) .....	5, 9, 11, 12
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1 **I. U.S. PATENT NO. RE 44,412**

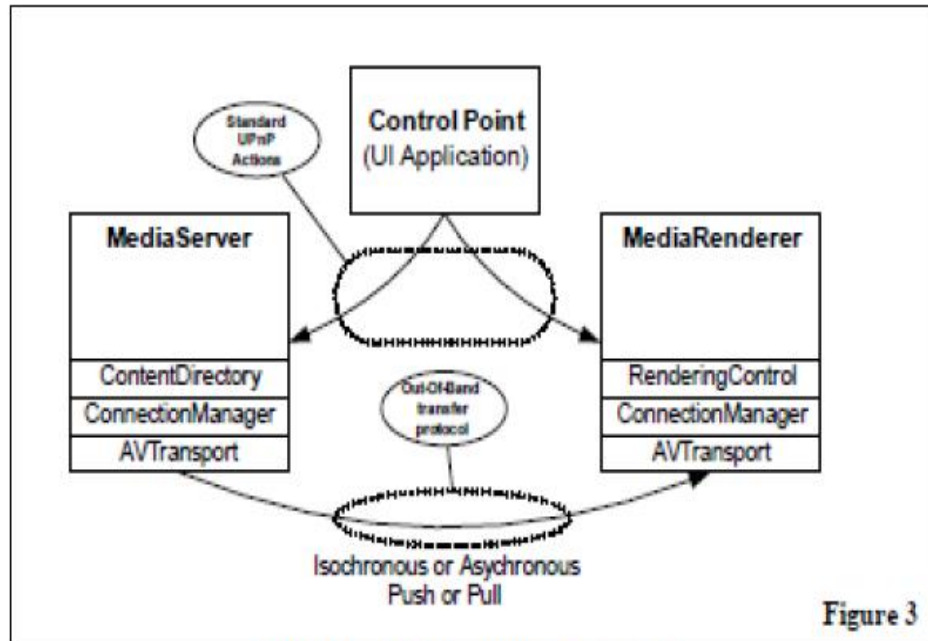
2 **A. Introduction to the ‘412 Patent**

3 U.S. Patent No. RE44,412 (the “‘412 patent”) claims a transformative architecture for  
4 controlling and delivering media content on a commercial scale over wide area networks. Ex. 1  
5 (‘412 Patent) at 5:35-48, Fig. 12.

6 In order to understand the patent at issue in this case it is important to understand the  
7 technological background at the time of invention. In 2004, the world of home entertainment was  
8 rapidly changing. Media content that was traditionally stored on a single-purpose storage device  
9 (e.g., a DVD ) was increasingly aggregated and placed in networked media servers (e.g., storage  
10 devices located on a home computer). This enabled people to more efficiently develop and  
11 maintain personal media libraries.

12 Display devices were also evolving. The most ubiquitous display device was an analog  
13 television (TV). But analog TVs were being replaced by digital LED or plasma TVs, a revolution  
14 that accelerated as the price of digital TVs decreased. Media renderers (devices with hardware  
15 and software for rendering media content) were often built into the television itself. Media  
16 renderers could be connected to media servers over local area networks. The software that  
17 enabled the user to select media content from the media server to be rendered by the media  
18 renderer was the control point, which also resided on a local area network. Media content  
19 providers (e.g., Disney), media server manufacturers (e.g., Avaya), and media renderer  
20 manufacturers s (e.g., Samsung ) created a forum to develop universal plug-and-play (“UPnP”)   
21 protocols so that the these devices could communicate.

UPnP had three distinct logical entities: (i) a control point; (ii) a media server; and (iii) a media renderer:



(UPnP Architecture at Fig. 3).

Ex. 2 (John Ritchie, et al., *UPnP AV Architecture:0.83* (June 2002) at Fig. 3.)

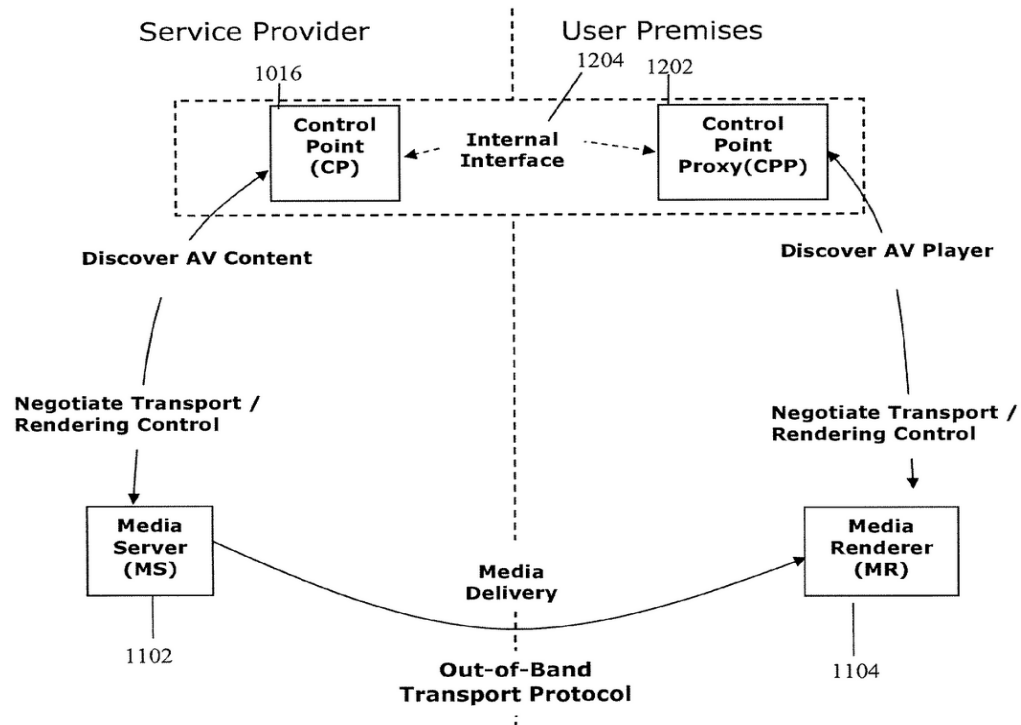
These three entities resided in a local area network, typically an individual residence. Remote controls, connected to the local area network by infra-red or Bluetooth technology, enabled a user to utilize the control point software to select media content from the media server to be rendered by the media renderer for display on a TV. Users could update their media content libraries by purchasing DVDs and uploading the content to their media server (e.g., a computer) or by finding media content on the Internet and downloading it to their media server. Traditional UPnP thus enabled users to utilize local control points to stream media content resident on local media servers to local media renderers for display on local TVs.

Dr. Shamim Naqvi, the lead inventor on the '412 patent, recognized the shortcomings inherent in the traditional UPnP architecture. First, each individual had to have a media server to store content. These servers, typically a part of a home computer, were expensive and had limited capacity. Second, individuals had to spend inordinate amounts of time uploading media content from DVDs or finding and downloading media content from the Internet. Third, because of the

1 limitations of the local area network, the user was limited to watching the media content stored on  
2 the user's media server. Fourth, because the only display device connected to the media server  
3 and the media renderer was the home TV, users were limited to watching the media content on a  
4 single display. Finally, each user needed to have the processing capability in their home to run  
5 the sophisticated control point software.

6 Dr. Naqvi's examination of the inherent shortcomings of the traditional UPnP architecture  
7 was not in a vacuum. He noticed that another technological revolution, the early precursors to  
8 modern day smartphones, was gaining steam. Although Nokia and Motorola devices led the US  
9 wireless phone market in 2004, a small group of pioneering companies (e.g., Ericsson, Palm,  
10 Kyocera, and Blackberry (f/k/a RIM)) began integrating PDAs with wireless phones to create what  
11 we now call smartphones. Dr. Naqvi believed that such smartphones would become the  
12 centerpiece of a user's technological life and that such smartphones would converge with the  
13 world of home entertainment. But Dr. Naqvi understood the handset's limitations. Handsets had  
14 limited battery and processing capabilities. Handsets also had small screens and poor screen  
15 resolution, and were therefore poor display devices. And because wireless bandwidth was limited  
16 and presented security, latency, and fidelity issues, streaming media content to a handset posed  
17 additional problems.

18 As claimed in the '412 patent, Dr. Naqvi transcended the technological difficulties in  
19 media content delivery and display by radically transforming UPnP and integrating the handset  
20 into this new architecture. Dr. Naqvi disaggregated the control point into two logical entities—  
21 the control point and the control point proxy—that could cooperate and negotiate the delivery of  
22 media content. *See, e.g.*, Ex. 1 ('412 patent) at claim 1, Figure 12. The control point proxy now  
23 resided in a user endpoint—e.g., a handset—and remained in the local area network. *See, e.g.*,  
24 Ex. 1 ('412 patent) at claim 1. The control point, by contrast, was moved to the cloud—to a  
25 network element on a wide area network. *Id.* The media server, for its part, could now reside  
26 anywhere in the world; it simply had to be connected to the Internet. *Id.* And the media renderer  
27 could likewise reside anywhere in the world, as long as it, too, was connected to the Internet. *Id.*



Ex. 1 ('412 Patent) at Figure 12.

This new architecture harnessed the capabilities of the existing technology in an entirely new way, maximizing the ability to control and access media content for delivery and display. By separating the control point software into two separate entities—and moving one of them into the cloud—the handset could now be used to *select* the media content, but was no longer required to receive the content itself. Instead, the media content—as a result of cooperation between the control point proxy on a handset and the control point in the cloud—could be controlled and delivered from remote media servers directly to local media renderers, which could be connected to large display devices. This eliminated the problem of having a small screen on the smartphone. It also overcame the security, latency, and fidelity concerns associated with using wireless devices by enabling the streaming of media content from a media server to a media renderer. Dr. Naqvi's new architecture also revolutionized the scope of media content accessible to consumers: instead of being limited to the media content library on the local media server, a user could now utilize the wide area network to access media from any server connected to the Internet. Because a single control point could service numerous control point proxies, the '412



1 patent's architecture enabled the efficient and secure distribution of media content on a  
2 commercial scale over wide area networks.

## 3 **II. CLAIM CONSTRUCTION LAW**

4 Claim construction is a matter of law for the Court to decide. *Markman v. Westview*  
5 *Instruments, Inc.*, 52 F.3d 967, 979 (Fed. Cir. 1995) (en banc), *aff'd*, 517 U.S. 370 (1996). "[T]he  
6 court should look first to the intrinsic evidence of record, *i.e.*, the patent itself, including the  
7 claims, the specification. And, if in evidence, the prosecution history. Such intrinsic evidence is  
8 the most significant source of the legally operative meaning of disputed claim language." *Liquid*  
9 *Dynamics Corp. v. Vaughan Co., Inc.*, 355 F.3d 1361, 1367 (Fed. Cir. 2004) (quoting *Vitrionics*  
10 *Corp. v. Conceptor Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)).

11 Claims should typically be accorded their plain and ordinary meaning to one of skill in the  
12 pertinent art in the context of the claims, specification and prosecution history. *See Phillips v.*  
13 *AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc). Embodiments from the  
14 specification should not be imported into the claims. *Toshiba Corp. v. Imation Corp.*, 681 F.3d  
15 1358, 1369 (Fed. Cir. 2012) ("We do not read limitations from the specification into claims."); *see*  
16 *also Cisco Sys., Inc. v. Lee*, 557 F. App'x 963, 971 (Fed. Cir. 2014). "There are only two  
17 exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own  
18 lexicographer, or 2) when the patentee disavows the full scope of the claim term either in the  
19 specification or during prosecution." *Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362,  
20 1365 (Fed. Cir. 2012).

21 Courts may also look to extrinsic evidence, such as dictionaries, in construing claims.  
22 *Phillips*, 415 F.3d at 1317. Extrinsic evidence is, however, "less significant than the intrinsic  
23 record" and "less reliable than the patent and its prosecution history in determining how to read  
24 claim terms." *Id.* at 1317-18.

25 Of course, the court need not construe every claim element. *See U.S. Surgical Corp. v.*  
26 *Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997); *O2 Micro Int'l Ltd. v. Beyond Innovation*  
27 *Technology Co., Ltd.*, 521 F.3d 1351, 1360 (Fed. Cir. 2008). Elements that are not technical  
28 terms of art may not need to be construed. *Brown v. 3M*, 265 F.3d 1349, 1352 (Fed. Cir. 2001).

Often, “the ordinary meaning of claim language . . . may be readily apparent even to lay judges, and claim construction . . . involves little more than the application of the widely accepted meaning of commonly understood words.” *Phillips*, 415 F.3d at 1314.

### III. CLAIM CONSTRUCTION

The claims in the ‘412 patent are easily understood by a person of ordinary skill in the pertinent art. To clarify the meaning of a limited number of terms, and to respond to Apple’s proposed constructions, however, Aylus proposes constructions for the following five terms: (i) handset, (ii) VCR controls, (iii) video play controls, (iv) wide area network, and (v) remote from the UE.

#### A. Handset

Aylus’ Proposed Construction	Apple’s Proposed Construction
A wireless handheld communication device that supports radio access technology (e.g., Wi-Fi, GSM, CDMA).	A mobile phone capable of making and receiving calls over the Public Switched Telephone Network.

Handset appears in claims 5, 6, 13, and 14, which depend from claim 1, and claim 33, which depends from claim 27:

5. The method of claim 1, wherein the UE is implemented on a **handset**.

6. The method of claim 5, wherein the **handset** comprises a display, and the MR uses the display.

13. The method of claim 12, wherein CPP logic is implemented in a UE resident in a **handset** and in a remote control device.

14. The method of claim 13, wherein a user uses the CPP logic in the **handset** when the user is remote from the MR and uses the CPP logic in the remote control device when the user is local to the MR.

33. The UE of claim 27, wherein the UE is implemented on a **handset**.

1. Apple's Construction Improperly Seeks to Graft a Tangential Reference about Prior Art from the Specification onto the Claim

Apple's proposed construction for handset plucks "Public Switched Telephone Network" from the background "***Related Prior Art***" (emphasis added) section of the '412 patent and attempts to import into the term "handset" language unnecessary to the performance of the invention and irrelevant to the language of the claims. This is impermissible. Importing any examples from the specification into the claims—especially examples of prior art, as opposed to the invention itself—is forbidden: Claims in a patent "are not to be interpreted by adding limitations appearing only in the specification." *Electro Med. Sys., S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 1054 (Fed. Cir. 1994). Accordingly, even preferred embodiments "will not be read into the claims when the claim language is broader than such embodiments." *Id.* "There are only ***two*** exceptions to this general rule: 1) when a patentee sets out a definition and acts as his own ***lexicographer***, or 2) when the patentee ***disavows*** the full scope of the claim term either in the specification or during prosecution." *Thorner v. Sony Computer Entm't Am. LLC*, 669 F.3d 1362, 1365 (Fed. Cir. 2012) (emphasis added).

Apple seeks to insert "Public Switched Telephone Network" into the straightforward claim term "handset." But neither of the two exceptions to the rule against importing limitations into claims—lexicography or disavowal—are present. *See id.* Along with many other technological concepts, "Public Switched Telephone Network" is simply part of a broad background explanatory section in the first portion of the specification. The Public Switched Telephone Network is mentioned only twice in the entire patent, both times in the section entitled "Discussion of Related Art," and both times as an ***alternative*** component of an ***exemplary*** embodiment.

The first mention in the specification of this telephone network explains that Base Station Controllers are combined into switches called Mobile Switching Centers, which are connected to the Public Land Mobile Network/Public Switched Telephone Network:

"2. Discussion of Related Art. Commonly deployed wireless communication networks, usually referred to as 2.5G networks, support both voice and data services. Typically, mobile handsets are connected to a Base Transceiver Station (BTS) using a Radio Access Network (RAN) that uses a modulation scheme such as CDMA (Code Division Multiple Access) or GSM (Global System for Mobile communications). The BTSs are connected via fixed links to one or more Base

1 Station Controllers (BSCs), and the BSCs are aggregated into switches called  
2 Mobile Switching Centers (MSCs). The MSC is connected to the Public Land  
3 Mobile Network/Public Switched Telephone Network (PLMN/PSTN), typically  
4 through a gateway switch called the Gateway Mobile Switching Center (GMSC).”

5 Ex. 1 (‘412 patent) at 1:38-51 (emphasis added).

6 The second mention of this telephone network explains that a Session Initiation Protocol  
7 (SIP) request may be routed to the Public Switched Telephone Network: “The Serving CSCF [Call  
8 State Control Function] (S-CSCF) actually handles the session states in the network and provides  
9 the following functions . . . Forward the SIP request or response to a BGCF [Breakout gateway  
10 control function] for call routing to the PSTN or CS [circuit switched] Domain.” Ex. 1 (‘412  
11 patent) at 3:25-40.

12 Neither of these passages from the specification discussing Related Prior Art that mention  
13 the Public Switched Telephone Network remotely suggest that they were intended to inform the  
14 scope of the claimed invention And neither of them describe functionality set forth in the claims.  
15 As the title of the section indicates, these passages are simply a part of a background section  
16 relating to prior art. Moreover, in each instance, the “Public Switched Telephone Network” is  
17 provided as one option. In the first instance to a Public Land Mobile Network, and in the second  
18 instance to the CS Domain.

19 As explained above, trying to read limitations from the specification into the claims is  
20 improper. *See, e.g., Toshiba Corp. v. Imation Corp.*, 681 F.3d 1358, 1369 (Fed. Cir. 2012) (“We  
21 do not read limitations from the specification into claims.”). Trying to read limitations into the  
22 claims that unambiguously are not intended to define the invention but instead simply describe  
23 prior art is wholly impermissible. *See Asetek Holdings, Inc. v. CoolIT Sys. Inc.*, No. C-12-4498  
24 EMC, 2013 WL 6327691, at \*4 (N.D. Cal. Dec. 3, 2013) (the claim construction was  
25 “fundamentally flawed because the statement above concerns the prior art, and not the present  
26 invention”); *see also Verizon Servs. Corp. v. Vonage Holdings Corp.*, 503 F.3d 1295, 1304-05  
27 (Fed. Cir. 2007) (rejecting a proposed construction supported by language from the specification  
28 that “is excerpted not from a description of the invention of the ‘ 711 patent, but rather from a

description, in the ‘Background Art’ section of the patent, of how the internet works in general”). Apple’s proposed construction should therefore be rejected.

## 2. The Claims Require Aylus’ Construction

Instead of importing tangential examples from the specification into the claims, proper claim construction focuses on the words of the claims themselves. “[W]e look to the words of the claims themselves, both asserted and non-asserted, to define the scope of the patented invention.” *Vitronics Corp.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996) (citing *Bell Commc’ns Research, Inc. v. Vitalink Commc’ns Corp.*, 55 F.3d 615, 620 (Fed. Cir. 1995)). The context in which a claim term is used is of critical importance: “[T]he claims themselves provide substantial guidance as to the meaning of particular claim terms. To begin with, the context in which a term is used in the asserted claim can be highly instructive.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc) (citations omitted); *see also, GE Lighting Solutions, LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1315 (Fed. Cir. 2014), *reh’g denied* (June 17, 2014).

Unless there is a clear indication that alternative definition should apply, claims should be given their plain meaning. *See, e.g., Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1325 (Fed. Cir. 2002) (“In the absence of an express intent to impart a novel meaning to claim terms, an inventor’s claim terms take on their ordinary meaning. We indulge a ‘heavy presumption’ that a claim term carries its ordinary and customary meaning.”) (citations omitted); *see also Starhome GmbH v. AT & T Mobility LLC*, 743 F.3d 849, 857 (Fed. Cir. 2014). A claim construction that, likewise, gives meaning to all the terms is preferred over the alternative. *See, e.g., Merck & Co., Inc. v. Teva Pharm. USA, Inc.*, 395 F.3d 1364, 1372 (Fed. Cir. 2005) (“A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so.”) (citations omitted); *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006) (“[C]laims are interpreted with an eye toward giving effect to all terms in the claim.”) (citations omitted).

Here, the claims themselves unambiguously support Aylus’ construction—“a wireless handheld communication device that supports radio access technology (*e.g.*, Wi-Fi, GSM, CDMA).” And Apple’s construction—“a mobile phone capable of making and receiving calls over the Public Switched Telephone Network”—bears no relationship to the claim language. The

1 communication, described in the claims, among and between the user endpoint/handset, CPP  
 2 logic, CP logic, MS, and MR—all over a wide area network—in order to stream media content  
 3 from a media server to a media renderer (i) requires the employment of radio access technology  
 4 (Aylus’ construction) and (ii) has nothing to do with the Public Switched Telephone Network  
 5 (Apple’s construction). This is clearly evident from the claim language. For example:

- 6 • the **user endpoint** can be a **handset**. Ex. 1 (‘412 patent) at claim 5 (“The method  
 7 of claim 1, wherein the **UE** is implemented on a **handset**.”) (emphasis added)
- 8 • the **user endpoint/handset** includes **control point proxy logic (CPP) logic**. *Id.*  
 9 at claim 1 (“the **UE** of the wide area network with **control point proxy (CPP)**  
 10 **logic**”) (emphasis added)
- 11 • the **user endpoint/handset** and **CPP logic** operate over a **wide area network**. *Id.*  
 12 (“the **UE** of the **wide area network** with **control point proxy (CPP) logic**”) (emphasis added)

13 This **CPP logic** on the **user endpoint/handset** must, according to the claims, engage in the  
 14 following activities on the **wide area network**:

- 15 • “negotiate media content delivery with at least one of the **MS** and the **MR**.” *Id.*  
 16 (emphasis added)
- 17 • “cooperate with **CP logic** to negotiate media content delivery between the **MS** and  
 18 the **MR**.” *Id.* (emphasis added)
- 19 • “control a presentation of content provided by the **MS** and rendered by the **MR**.”  
 20 *Id.* (emphasis added)

21 Indeed, numerous claims expressly require a user endpoint/handset to operate on networks  
 22 that employ radio access technology. For example:

- 23 • claim 2: “local wireless network”
- 24 • claim 3: “Wi-Fi network, a WiMax network, and a Bluetooth network”
- 25 • claim 7: “3G network and in communication with the serving node”
- 26 • claim 9: “local wireless network”
- 27 • claim 10: “3G network”
- 28 • claim 17: “Universal Plug and Play (UPnP) protocols”

- claim 18: “UPnP protocols, Jini technology, RFID, and Bluetooth”
- claim 23: “local wireless network”
- claim 25: “UPnP protocols, Jini technology, RFID, and Bluetooth”

Not a single claim term, expressly or impliedly, suggests that the Public Switched Telephone Network is required to practice the invention. It is, as mentioned above, simply a background concept in the prior art. Because “the words of the claims themselves...define the scope of the patented invention” the court should accept Aylus’ proposed construction. *Vitronics Corp.*, 90 F.3d at 1582 (citing *Bell Commc’ns Research, Inc. v. Vitalink Commc’ns Corp.*, 55 F.3d 615, 620 (Fed. Cir. 1995)).

### 3. The Specification Supports Aylus’ Construction

Contrary to Apple’s selective use of the Related Prior Art Section of the specification, a complete evaluation of the specification supports Aylus’ construction. Like the claims, the specification is filled with examples establishing that the claimed “handset” requires the use of radio access technology, and does not require use of the Public Switched Telephone Network. For example, the specification explains that, at the time of the invention, handsets were being produced that support radio access technology:

In conjunction with deployments of various kinds of access networks, handset manufacturers are also producing handsets that support multiple radio access technologies. Examples of such handsets today are those that support Wi-Fi and GSM/CDMA cellular networks. In such handsets, known as Class A handsets, both the circuit-switched session of the GSM/CDMA network and the packet-switched session of Wi-Fi can co-exist and be active simultaneously. Moreover, there are numerous proposals for voice call handoffs between cellular (GSM/CDMA) and Wi-Fi networks.

Ex. 1 (‘412 patent) at 14:41-50.

Another example from the specification that supports Aylus’ construction is an explanation that multiple Wi-Fi networks can support the use of a handset:

Another type of handset, called a Class B, handset only supports either a circuit-switched session or a packet session at any given time. If the handset roams into a Wi-Fi area from a cellular area, the circuit-switched session is replaced by a new packet-switched session supported by the new Wi-Fi network in a Class B handset; in a Class A handset the circuit-switched session can be allowed to persist. This corresponds to removing one Incoming Leg of the AVS (representing the circuit-



switched cellular connection) and adding another Incoming Leg (representing the Wi-Fi connection) to the underlying AVS for Class B handsets.

*Id.* at 14:56-67.

Numerous other examples from the specification support Aylus’ construction that “handset” should be construed as “a wireless handheld communication device that supports radio access technology (e.g., Wi-Fi, GSM, CDMA).” For example:

- “handsets connected to a 3G wireless network.” *Id.* at 5:40-41.
- “the MS being on a 3G network.” *Id.* at 6:19.
- “[t]he local wireless network is a Wi-Fi network, a WiMax network, or a Bluetooth network.” *Id.* at 6:8-9.
- “the MS nor the MR are in communication the UE via the local wireless network.” *Id.* at 6:11-12.

Because the specification is replete with embodiments where a “handset” is a wireless handheld communication device that supports radio access technology—including embodiments that are not connected to the Public Switched Telephone Network—and because there is no indication in the entire patent that a “handset” must be a cellular phone that operates on the Public Switched Telephone Network, the Court should accept Aylus’ proposed construction for “handset.”

#### **B. VCR controls**

<b>Aylus’ Proposed Construction</b>	<b>Apple’s Proposed Construction<sup>1</sup></b>
Controls for display of video content (e.g., play, pause, rewind, stop buttons).	Controls for a video cassette recorder (VCR).

<sup>1</sup> As an initial matter, Apple’s Proposed Construction is ambiguous. By its use of the word “for” it is unclear if Apple means controls of the type which control a video cassette recorder or the controls included in a video cassette recorder. Because the former construction would be the equivalent of Aylus’ Proposed Construction, which, lacking ambiguity, would be less confusing to a jury, this analysis proceeds from the conclusion that Apple intends the latter meaning in proposing its construction.



1 The term “VCR controls” appears in independent claim 1 and in claim 15, which depends  
2 from claim 1:

3 1. A method of controlling and delivering media content from a media server (MS) to  
4 a media renderer (MR) utilizing a wide area network for control, comprising the acts of...once  
5 media content delivery is negotiated, controlling a presentation of delivery via the **VCR controls**  
6 on the UE.

7 15. The method of claim 1, wherein, if one of the MS and MR are remote from the UE,  
8 the CPP logic provides information about invoked **VCR controls** to the CP logic on the serving  
9 node to allow the CP logic to control the remote MS or MR.

10 1. Apple’s Proposed Construction Would Render the Applicable Claims  
11 Inoperable and Irreconcilably Conflicts with the Claims

12 Apple has proposed a construction for VCR controls—which the claims require be content  
13 display controls for such items as a “handset” and a “remote control”—as the hyper-literal and  
14 wholly inoperable “controls for a VCR.” A VCR is a device that ingests physical videocassettes  
15 and renders the video for display. Read in the context of the claims, Apple’s proposed  
16 construction produces an absurd result that would render the claim inoperable and confuse the  
17 jury. By contrast, Aylus’ proposed construction—“controls for display of video content (e.g.,  
18 play, pause, rewind, stop buttons)”—is consistent with the context of the claims, is supported by  
19 the specification, and accords with the basic purpose and functionality of the claimed invention.

20 The *context of the claims* is a central component of claim construction. “[T]he claims  
21 themselves provide substantial guidance as to the meaning of particular claim terms. To begin  
22 with, *the context in which a term is used* in the asserted claim can be highly instructive.” *Phillips*  
23 *v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc) (emphasis added). Likewise,  
24 claim constructions generally must give meaning to all the terms in the claims. *Merck & Co., Inc.*  
25 *v. Teva Pharm. USA, Inc.*, 395 F.3d 1364, 1372 (Fed. Cir. 2005) (“A claim construction that gives  
26 meaning to all the terms of the claim is preferred over one that does not do so.” (citations  
27 omitted)); *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006).

1 Claim constructions, moreover, must be logical and must provide for operable inventions.  
 2 *See Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1336 (Fed. Cir. 2001)  
 3 (rejecting claim construction that is “illogical and does not accord with the plain import of the  
 4 claim language”); *Talbert Fuel Sys. Patents Co. v. Unocal Corp.*, 275 F.3d 1371, 1376 (Fed. Cir.  
 5 2002), *vacated on other grounds*, 537 U.S. 802 (2002) (“a construction that renders the claimed  
 6 invention inoperable should be viewed with extreme skepticism”); *Markman v. Westview*  
 7 *Instruments, Inc.*, 517 U.S. 370, 390 (1996), *aff’d*, 517 U.S. 370 (1996) (claims should be  
 8 construed to “preserve the patent’s internal coherence”).

9 Apple’s proposed construction—“controls for a video cassette recorder (VCR)”—ignores  
 10 the context of the claims, denies the effect of numerous key terms in the claims, is illogical, and, if  
 11 accepted, would render the applicable claims inoperable. The acronym VCR in the disputed term  
 12 “VCR controls” stands for “video cassette recorder.” *See, e.g.*, Ex. 1 (‘412 patent) at claim 1  
 13 (“video cassette recorder (VCR) controls”). These **VCR controls** exist in the **control point**  
 14 **proxy logic (CPP logic)** on a **user endpoint (UE)**: “provisioning the **UE** of the wide area network  
 15 with **control point proxy (CPP logic)** that includes...**video cassette recorder (VCR)**  
 16 **controls**....” *Id.* These VCR controls control a presentation of content provided by the MS and  
 17 rendered by the MR: “provisioning the UE of the wide area network with control point proxy  
 18 (CPP logic) that includes...video cassette recorder (VCR) controls to **control a presentation of**  
 19 **content** provided by the MS and rendered by the MR....” *Id.* Thus, the claims require that the  
 20 VCR controls are controls *for a user endpoint* to control the presentation of content. A user  
 21 endpoint is, plainly, not the same thing as a video cassette recorder (VCR). In fact, numerous  
 22 claims expressly negate this possibility. Claim 5, for instance, contemplates a “UE implemented  
 23 on a handset.” A VCR cannot be a handset. Likewise, claim 13 requires “a UE resident in a  
 24 handset and in a remote control device.” A VCR cannot be a remote control device. And,  
 25 moreover, claim 28 includes “the UE of claim 27 comprising a display.” A VCR cannot be a  
 26 display.

27 The context of the claims—in which the VCR controls are for user endpoints such as  
 28 handsets and remote controls—thus makes clear that the controls are not necessarily for an actual

1 VCR. Instead, the context of the patent makes clear that the term VCR controls indicates the  
 2 basic functionality of controls—such as play, stop, pause, etc.—for controlling the presentation of  
 3 video content. *See GE Lighting Solutions, LLC v. AgiLight, Inc.*, 750 F.3d 1304, 1315 (Fed. Cir.  
 4 2014), *reh’g denied* (June 17, 2014). Apple’s construction would render the claims illogical and  
 5 inoperable: controls for a handset, remote control, or display to control the display of video  
 6 content streamed over a wide area network cannot logically be controls for a VCR—a device that  
 7 ingests physical videocassettes and renders them for display. *See Becton, Dickinson & Co. v.*  
 8 *Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1255 (Fed. Cir. 2010) (“[A] claim construction that  
 9 renders asserted claims facially nonsensical cannot be correct.”); *see also GE Lighting Solutions*,  
 10 750 F.3d at 1320. Finally, such a construction would impermissibly read numerous claim  
 11 terms—such as “handset,” “remote control,” and “display”—out of the claims, as these  
 12 embodiments would be replaced by a VCR. “[C]laims are interpreted with an eye toward giving  
 13 effect to all terms in the claim.” *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006)  
 14 (citations omitted); *see also HowLink Global LLC v. Network Commc’ns Int’l Corp.*, 561 F. App’x  
 15 898, 906 (Fed. Cir. 2014). The court should therefore accept Aylus’ proposed construction.

## 16 2. Apple’s Proposed Construction Conflicts with the Specification

17 The conclusion that Apple’s construction is contrary to the context and structure of the  
 18 claims is not just dictated by the claim language, it is strongly supported by the specification.  
 19 That is, that the VCR controls are part of the CPP logic on the user endpoint, and that the user  
 20 endpoint cannot be required to be a VCR—as Apple’s construction would have it—because a user  
 21 endpoint is such things as a handset, a remote control, and a display is also abundantly clear from  
 22 the specification. For example, the specification states that the UE may be implemented on a  
 23 handset with a display. *See* Ex. 1 (‘412 patent) at 6:12-14 (“**The UE may be implemented on a**  
 24 **handset**, and the handset may include a display that is used as the media rendering device.”).  
 25 Likewise, the specification states that the UE—which is required to have CPP logic—may be a  
 26 remote control unit. *See id.* at 6:25-31 (“The CP logic is configured to serve multiple unrelated  
 27 devices running CPP logic; these devices can be handsets and **remote control units**.”). The  
 28 principal CPP can depend on the location of the user; for example, the user may use the CPP logic

1 in the handset when the user is remote from the MR and use **the CPP logic in a remote control**  
 2 **unit** when the user is local to the MR.” *See also, id.* at 5:46-48 (“The control point proxies  
 3 [which reside on the UE ] also include VCR controls for controlling the presentation of the  
 4 selected media delivery”); *id.* at 17:34-35 (“there can be a CPP implemented in a handset, and also  
 5 in a remote control unit”); *Talbert Fuel Sys. Patents Co.. v. Unocal Corp.*, 275 F.3d 1371, 1376  
 6 (Fed. Cir. 2002). Therefore the Court should accept Aylus’ proposed construction.

### 7 C. Video Play Controls

Aylus’ Proposed Construction	Apple’s Proposed Construction
Controls for display of video content (e.g., play, pause, rewind, stop buttons).	Plain and ordinary meaning.

12 Video play controls appears in claims 20 and 27:

13 20. A method of controlling and delivering media content from a media server (MS) to a  
 14 media renderer (MR) utilizing a wide area network for control, where a user endpoint (UE) is  
 15 provisioned with control point proxy (CPP) logic that includes (i) logic to negotiate media content  
 16 delivery with at least one of the MS and the MR, (ii) logic to cooperate with network control point  
 17 (CP) logic to negotiate media content delivery between the MS and the MR, and (iii) video play  
 18 controls to control a presentation of content provided by the MS and rendered by the MR, wherein  
 19 the CPP logic resides in the UE and serves as a first proxy, comprising the acts of...once media  
 20 content delivery is negotiated, receiving **video play controls** from the UE.

21 27. A user endpoint (UE) for communication with a serving node in a network, the  
 22 serving node having control point (CP) logic that includes logic to negotiate media  
 23 content delivery with at least one of a media server (MS) and a media renderer  
 24 (MR), wherein the CP logic, MS, and MR reside outside of the UE and the CP  
 25 logic resides in the signaling domain and serves as a first proxy, the UE  
 26 comprising...once media content delivery is negotiated, control a presentation of  
 27 media content provided by the MS and rendered by the MR with **video play**  
 28 **controls**.

## I. Video Play Controls Are Controls for Display of Video Content

The term “video play controls” was added to claims 20 and 27 of the ‘412 patent during reissue proceedings before the Patent Office. *See* Ex. 1 (‘412 patent) at claims 20 and 27. The term was added to give full scope to the functionality described in the specification, not to change the meaning of this aspect of the invention. As with “VCR controls,” the context of the claims establishes that “video play controls” are controls for the display of video content, and not controls for a VCR. While Apple’s proposed construction is now “plain and ordinary meaning,” Aylus requests its construction to prevent Apple from arguing, later in the case, that the plain and ordinary meaning of “video play controls” somehow relates to controls for a VCR.

Claim construction analysis “begins with the language of the claims themselves” and “claim language ‘generally carries the ordinary meaning of the words in their normal usage in the field of invention.’” *Apio, Inc. v. Mann Packing Co., Inc.*, No. C07–5628 JF, 2008 WL 4571558, at \*2 (N.D.Cal. Oct. 14, 2008) (quoting *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1367 (Fed. Cir. 2003)). Thus, “[i]n some cases, the ordinary meaning of claim language . . . may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc). “**Controls for the display of video content**” gives effect to the widely accepted meaning of the commonly understood words of the claims: “**video play controls.**” No additional limitation should be imported into the plain meaning of this term.

In addition to the plain language of the claim terms, the context of the claims also supports the notion that “video play controls” are not controls for a VCR but instead are, simply, controls for the display of video content. “[T]he context in which a term is used in the asserted claim can be highly instructive.” *Phillips.*, 415 F.3d at 1314. “Video play controls” must be part of a “**user endpoint**” that includes “**control point proxy logic.**” *See, e.g.*, Ex. 1 (‘412 patent) at claim 20 (“a **user endpoint (UE)** is provisioned with **control point proxy (CPP) logic** that includes . . . **video play controls.**”). And the user endpoint may be a handset, a remote control, and even a display. *Id.* at claims 13 (“a UE resident in a handset and in a remote control device”),

28 (“the UE of claim 27 comprising a display”), and 33 (“[t]he UE of claim 27, wherein the UE is implemented on a handset”). A user endpoint is, indeed, not a VCR. What distinguishes video play controls from other types of controls is not the specific physical item that the controls are a part of, but instead what the controls actually do. “Video play controls” are traditional controls—such as play, pause, etc.—for the display of video content.

#### D. Wide Area Network

Aylus’ Proposed Construction	Apple’s Proposed Construction
An electronic communication network that connects nodes in a large geographical area.	Plain and ordinary meaning.

Wide area network appears in claims 1 and 20.

1. A method of controlling and delivering media content from a media server (MS) to a media renderer (MR) utilizing a wide area network for control, comprising the acts of:

provisioning a serving node in the **wide area network** with control point (CP) logic that includes logic to negotiate media content delivery with at least one of the MS and the MR, wherein the CP logic, MS, and MR resides outside of a user endpoint (UE) and the CP logic resides in the signaling domain and serves as a first proxy; provisioning the UE of the **wide area network** with control point proxy (CPP) logic  
....

20. A method of controlling and delivering media content from a media server (MS) to a media renderer (MR) utilizing **a wide area network** for control, where a user endpoint (UE) is provisioned with control point proxy (CPP) logic that includes (i) logic to negotiate media content delivery with at least one of the MS and the MR, (ii) logic to cooperate with network control point (CP) logic to negotiate media content delivery between the MS and the MR, and (iii) video play controls to control a presentation of content provided by the MS and rendered by the MR, wherein the CPP logic resides in the UE and serves as a first proxy, comprising the acts of:

1 provisioning a serving node in the *wide area network* with control point (CP)  
 2 logic....

### 3 **I. The Invention Relates to a Wide Area Network**

4 The ‘412 patent, entitled “digital home networks having a control point located on a wide  
 5 area network,” relates to streaming video content over a wide area network. *See, e.g.*, Ex. 1 (‘412  
 6 patent) at claim 1 (“utilizing a wide area network”); *id.* at 5:35-36 (“The invention provides  
 7 systems and methods for implementing digital home networks having a control point located on a  
 8 wide area network.”); *id.* at 17:25-27 (“Moving the control point into the wide area network  
 9 enables a user to connect to services provided by MSs that are not located in the home, such as  
 10 foreign television stations.”). Indeed, one of the innovative aspects of the ‘412 patent is that it  
 11 took principles relating to local area networks and applied them to wide area networks. *See, e.g.*,  
 12 *id.* at 17:7-8 (“In certain embodiments, the UPnP architecture is extended into a wide area network  
 13 environment.”); *supra* section I.A.

14 Extrinsic evidence such as dictionaries “may be useful to the court, but it is unlikely to  
 15 result in a reliable interpretation of patent claim scope unless considered in the context of the  
 16 intrinsic evidence.” *Phillips*, 415 F.3d at 1314. While dictionary definitions and other extrinsic  
 17 evidence should not be afforded undue weight—and are irrelevant when the intrinsic evidence  
 18 resolves the meaning of a claim term—various dictionary definitions explain that a wide area  
 19 network is an electronic communication network that connects nodes in a *large* geographical area.  
 20 That is, various dictionaries confirm that in order to qualify as a wide area network, the connection  
 21 of nodes must take place across a large geographical space (e.g., the connection of nodes in  
 22 different states or countries) and not small ones (e.g., the connection of nodes within the same  
 23 home or building). For example, Webster’s Dictionary defines “wide area network” as “a  
 24 computer network that spans a relatively large geographical area.” Ex. 3 (*Random House*  
 25 *Webster’s Dictionary* (4<sup>th</sup> ed. 2001)).

26 The alternative to a wide area network is a local area network. *See, e.g.*, Ex. 1 (‘412  
 27 patent) at 18:36-38 (“An IGD is an ‘edge’ interconnect device between a residential Local Area  
 28 Network (LAN) and the Wide Area Network (WAN), providing connectivity to the Internet.”). A



1 local area network is an electronic communication network that connects nodes over a small  
 2 geographic area. *See, e.g.,* Ex. 4 (*Webster’s New World Computer Dictionary* (9<sup>th</sup> ed. 2001)) (“a  
 3 computer network that uses cables a radio signals to link two or more computers within a  
 4 geographically limited area (generally one building or group of buildings)).”

5 In practice, a local area network may be a single floor, a single building, or a single site;  
 6 and everything outside of this area in the network would be in a wide area network. One of the  
 7 key advantages of the invention is delivering media across large geographical areas on a  
 8 commercial scale, thereby enabling users to stream media content residing anywhere in the world  
 9 to their home television displays. *See, e.g.,* Ex. 1 (‘412 patent) at 17:25-27 (“Moving the control  
 10 point into the wide area network enables a user to connect to services provided by MSs that are not  
 11 located in the home, such as foreign television stations.”). Because the geographical boundaries  
 12 delineating wide area networks from local area networks are central to the ‘412 patent’s  
 13 revolutionary architecture for accessing, delivering, and rendering media content, the Court should  
 14 adopt Aylus’ construction of wide area network.

#### 15 E. Remote from the UE

Aylus’ Proposed Construction	Apple’s Proposed Construction
Not located on the same electronic communication network that connects devices in a small geographic area as the UE.	Plain and ordinary meaning.

22 Remote from the UE appears in claim 15, which depends from claim 1:

23 15. The method of claim 1, wherein, if one of the MS and MR are **remote from the UE**,  
 24 the CPP logic provides information about invoked VCR controls to the CP logic on the serving  
 25 node to allow the CP logic to control the remote MS or MR wherein the UE is implemented on a  
 26 handset.



1           **I. “Remote” Does Not Mean “Resides Outside”**

2           As discussed above, one of the innovative aspects of the ‘412 patent was to extend media  
3 delivery architecture into a wide area network—an electronic communication network that  
4 connects devices in a large geographic area. Ex. 1 (‘412 patent) at 17:60 (“a wide area  
5 networking extension of UPnP”). Claim 15 is one example of this innovation. In claim 15, the  
6 CPP logic on the UE communicates with the CP logic on the wide area network regarding invoked  
7 VCR controls (such as play, pause, etc.) to enable the CP logic to control the remote media server  
8 or remote media renderer. This architecture allows the CP logic to interact with entities on the  
9 wide area network in order to effectuate user instructions, thereby empowering users to control  
10 and render media content located anywhere in the world. Accordingly, “[r]emote from the UE”  
11 in this context means that one of the MS and the MR are not located on the same electronic  
12 communication network that connects devices in a small geographic area as the UE; that is, that  
13 one of the MS and the MR are not located on the same local area network as the UE.

14           This meaning is evident from the other claims in the patent, which the Federal Circuit has  
15 explained can be “valuable sources of enlightenment as to the meaning of a claim term.”  
16 *Hologic, Inc. v. SenoRx, Inc.*, 639 F.3d 1329, 1336 (Fed. Cir. 2011) (citations and quotations  
17 omitted); *see also Phillips*, 415 F.3d at 1314 (“[o]ther claims of the patent in question, both  
18 asserted and unasserted, can also be valuable sources of enlightenment as to the meaning of a  
19 claim term.”). In the ‘412 patent, the MS and MR “reside[] outside of the UE”: “provisioning a  
20 serving node in the wide area network with control point (CP) logic that includes logic to  
21 negotiate media content delivery with at least one of the MS and the MR, wherein *the CP logic,*  
22 *MS, and MR resides outside of a user endpoint (UE)* and the CP logic resides in the signaling  
23 domain and serves as a first proxy...” Ex. 1 (‘412 patent) at claim 1 (emphasis added). “Resides  
24 outside of a user endpoint,” in this context, simply means that the CP logic, media server, and  
25 media renderer are not stored on the physical device that is the user endpoint. Thus, first, to  
26 indicate that the MS and the MR are not on the same device as the UE, the patent uses the words  
27 “resides outside of a user endpoint.” *Id.* And, second, to indicate the distinct requirement of  
28 being at another location in the wide area network, the patent uses the term “remote from the UE.”

1 *See, e.g., id.; Interactive Gift Exp., Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1331 (Fed. Cir.  
2 2001) (“In construing claims, the analytical focus must begin and remain centered on the language  
3 of the claims themselves....”); *Comaper Corp. v. Antec, Inc.*, 596 F.3d 1343, 1348 (Fed. Cir. 2010)  
4 (“There is an inference ... that two different terms used in a patent have different meanings.”)  
5 (citation omitted). Accordingly, “remote from the UE” should be construed as “not located on the  
6 same electronic communication network that connects devices in a small geographic area as the  
7 UE.”

8 **IV. CONCLUSION**

9 For the foregoing reasons, Aylus respectfully requests that the Court adopt its proposed  
10 constructions.

11 DATED: September 11, 2014

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 11, 2014, at San Francisco, California.

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